

Service Date: September 26, 2013

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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| In the Matter of NORTHWESTERN |) | REGULATORY DIVISION |
| ENERGY, Application for Approval of |) | |
| Unreflected Gas Cost Account Balance, |) | DOCKET NO. D2013.5.34 |
| Projected Gas Cost and Gas Transportation |) | |
| Adjustment. |) | ORDER NO. 7282a |
| |) | |

PROCEDURAL ORDER

1. On May 31, 2013, NorthWestern Energy (NWE) filed an application before the Montana Public Service Commission (PSC) for approval of a natural gas rate change that: a) reflects rate treatment for the balance in Unreflected Gas Cost for the 12-month period ending June 30, 2013; b) reflects rate treatment for amortization of the Gas Transportation Adjustment Clause (GTAC) Balance as of April 30, 2013; c) extinguishes the unit amortizations in the current rate schedules, approved in Order No. 7218b from Docket D2012.5.48; and d) reflects the projected load, supply and related natural gas costs for the 12-month tracker period from July 1, 2013, through June 30, 2014.

2. NWE also requests approval to continue to collect the cost of its interest in Bear Paw natural gas field (Bear Paw) on an interim basis in this docket until such time as a revenue requirement filing is processed by the Commission.

3. The Public Service Commission (PSC), through delegation to PSC staff, hereby establishes the procedural schedule to be followed in this proceeding. This Order is effective immediately and remains effective unless and until modified by action of the PSC. A party may apply for reconsideration of this Order within 10 days of the service date above. Nothing in this Order limits the right of the Commission or its staff to inspect the books, accounts, papers, records and memoranda of NWE at any time.

Schedule

4. This Order sets the discovery scheduled for this docket. The following prefiled testimony and discovery must be filed at the Commission and served on all parties by the following deadlines.

- a. October 11, 2013: Final day for written discovery (includes data requests) to utility on utility's application and prefiled testimony.
- b. November 1, 2013: Final day for utility to respond to discovery.
- c. November 22, 2013: Final day for initial prefiled testimony from intervenors.
- d. December 9, 2013: Final day for written discovery on intervenor prefiled testimony.
- e. December 19, 2013: Additional issues, if any, identified by PSC staff. If the PSC identifies additional issues it will issue a modified procedural order and schedule, likely changing some of the deadlines in f through k.
- f. December 23, 2013: Final day for intervenors to respond to written discovery on prefiled testimony.
- g. January 14, 2014: Final day for utility rebuttal testimony and intervenor response testimony, if any, to intervenor prefiled testimony.
- h. January 28, 2014: Final day for discovery on utility rebuttal testimony and intervenor response testimony, if any.
- i. February 11, 2014: Final day for utility to respond to discovery on utility rebuttal testimony and intervenors to respond to discovery on intervenor response testimony, if any.
- j. February 18, 2014: Prehearing Memorandum filed.
- k. February 26, 2014: Hearing commences and continues from day to day until concluded.

Ex Parte Communications

5. This proceeding is a contested case proceeding. In contested case proceedings generally *ex parte* communications are prohibited. An *ex parte* communication is one between a Commissioner and any person associated with a party in the contested case, when the communication involves the contested case or an issue in the contested case and all other parties to the contested case have not been given a reasonable opportunity to participate in the

communication. PSC Commissioners are prohibited by law from receiving or conveying *ex parte* communication. § 2-4-613, MCA.

Service and Filing

6. A party must serve a copy of all pleadings, motions, discovery requests, discovery responses, pre-filed testimony, briefs, and other documents it files in this proceeding on every other party. In order to file a document with the Commission, a party must: (1) Submit the document electronically (e-file) on the Commission's website at <http://psc.mt.gov> (See "Electronic Documents" tab and "Account Login/Registration" in pull-down menu); and (2) physically deliver or mail the original document to the Commission at 1701 Prospect Ave., P.O. Box 202601, Helena, Montana 59620-2601. The Commission will not post an e-filed document to its website until it receives the original from the filing party. Service or filing by means of facsimile is prohibited. Service by mail does not extend a deadline.

Intervention

7. The deadline for intervention in this proceeding was July 30, 2013. An interested person may apply to the Commission for late intervention. In the case of late intervention, the person must (a) identify the general position that the intervenor will take if the intervention is granted; (b) demonstrate a legally protectable interest directly affected by this docket; (c) demonstrate that the intervention, if granted, will not delay or prejudice the proceeding in this docket; and (d) good cause why the request for intervention was not timely filed. Late intervention will be effective only upon action of the PSC.

Discovery

8. Data requests are the primary method of discovery in proceedings before the Commission but parties may employ techniques of prehearing discovery permitted in state civil actions. ARM 38.5.3301. The Commission directs the parties to prepare data requests according to the following guidelines:

- a. Assign a unique, consecutive number to each data request (e.g. MCC-001), regardless of the party to whom the request is directed (e.g. the Commission may direct PSC-001 through 008 to NorthWestern Energy, PSC-009 through 016 to an intervenor, and PSC-017 through 019 again to NorthWestern.)
- b. All data requests must include at the beginning of each request a description of five words or less explaining the subject of the data request. In addition, a party

may direct the request to a particular witness or include citations to exhibits or testimony.

- c. For multi-part requests, use lower case letters (a-e) to denote up to five parts.
- d. The following are examples of acceptable data requests:

PSC-006 RE: Purchased Gas Contracts
 Witness Doe, JBD-4:13-15.

Please provide the origination and expiration date for each contract.

PSC-007 RE: Bypass
 Witness Roe, FAR-14:11-26.

- a. What risks of bypass would be avoided by the shareholders as a result of the company's proposed treatment?
- b. What risks of bypass would be avoided by the ratepayers as a result of the company's proposed treatment?

9. A party may object to written discovery within seven (7) calendar days from service by filing an objection with the Commission and serving it on all parties. In its discretion, the Commission may schedule oral argument before ruling on an objection. If a party objects based on privilege, it must file a privilege log with sufficient information for the Commission to determine whether the privilege applies. If a party objects based on confidentiality, it must file a motion for a protective order within seven (7) calendar days from service of the discovery request.

10. If a discovery response fails to answer the request, the discovering party may move within seven (7) calendar days after service of the response for an order compelling an answer. The motion, which the party must file with the Commission and serve on all parties, must identify the relief requested. The Commission may schedule oral argument before ruling on a motion to compel and will set a new response deadline if it grants the motion.

11. In response to a party's failure to answer written discovery, the Commission may: (1) Refuse to allow it to support or oppose related claims; (2) Prohibit it from introducing related evidence; (3) Strike pleadings, testimony or parts thereof; (4) Stay the proceeding until the request is satisfied; or (5) Dismiss the proceeding or parts thereof.

12. A party may submit written discovery after a deadline established in this Order either by agreement of the parties or with approval of the Commission upon a showing of good cause that addresses why the discovering party missed the deadline.

Pre-hearing Motions, Conferences and Memoranda

13. A party must make a pre-hearing motion, including a motion to strike pre-filed testimony, at the earliest possible time. A responding party must file and service its response brief within seven (7) calendar days of service of the motion. If the movant wishes to reply, it must file and service its reply brief within five (5) calendar days of service of the response brief. Upon the request of a party, the Commission may allow oral argument on a pre-hearing motion.

14. The Commission may schedule a pre-hearing conference at any time prior to the hearing to discuss the feasibility of settlement in whole or in part, simplification of the remaining issues through admissions of fact, and any other matters that may expedite the hearing.

15. Unless the parties agree to file jointly, each party must file and serve a pre-hearing memorandum listing the following information regarding the hearing: (1) Uncontested issues; (2) Contested issues; (3) Witnesses it intends to call; (4) Exhibits and discovery it intends to introduce; (5) Any special accommodations it seeks regarding witness sequence or scheduling. If a party intends to introduce a discovery response, it must identify the number of the request, the responding witness, and the issue addressed.

Hearing

16. The Montana Rules of Evidence in effect at the time of the hearing will govern the hearing. Because each party is entitled to reasonable notice of what issues will be addressed at the hearing, the Commission may not allow a party to raise an issue at hearing unless it is reasonably related to an issue previously identified in the proceeding.

17. Prior to the hearing, the parties must arrange with the court reporter and presiding officer to consistently mark all proposed exhibits and pre-filed testimony for reference.

18. A party must make each person that authored a discovery response available for cross-examination at the hearing unless the Commission approves an agreement among the parties to waive cross-examination and allow admission of the evidence absent the author of the discovery appearing as a witness. A witness need not recite pre-filed testimony before counsel moves to admit the testimony into the record.

19. When a party seeks to cross-examine a witness based on a document not previously filed in this proceeding, it must make copies of the document available to each Commissioner, party and staff, unless it shows good cause why copies are not available.

20. At the discretion of the Commission, members of the public may comment on the proceeding at the hearing.

Open Meetings

21. All Commission meetings are open to the public except as provided by law. The Commission issues notice of routine business meetings and work sessions through a weekly agenda service list. In order to receive notice of the weekly agenda, which may relate to this proceeding, a party must request to be added to the weekly agenda service list.

DONE AND DATED this 24th day of September 2013, by delegation to Commission staff as an Order of the Commission.

BY THE MONTANA PUBLIC SERVICE COMMISSION

W. A. (BILL) GALLAGHER, Chairman
BOB LAKE, Commissioner
TRAVIS KAVULLA, Commissioner
KIRK BUSHMAN, Commissioner
ROGER KOOPMAN, Commissioner